

joelrama.ple

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FILED
DISTRICT COURT OF GUAM

JUN 25 2008 *nba*

JEANNE G. QUINATA
Clerk of Court

**IN THE UNITED STATES DISTRICT COURT
FOR THE TERRITORY OF GUAM**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOEL LAYSON RAMA,

Defendant.

CRIMINAL CASE NO. 08-00027

PLEA AGREEMENT

Pursuant to Rule 11(c)(1)(B), the United States and the defendant, JOEL LAYSON RAMA, enter into the following plea agreement:

1. The defendant agrees to enter a guilty plea to Count II of an Indictment charging him with Possession of Methamphetamine with Intent to Distribute, in violation of Title 21, United States Code, Section 841(a)(1). The government will move to dismiss Counts I upon sentencing.

2(a) The defendant, JOEL LAYSON RAMA, further agrees to fully and truthfully cooperate with Federal law enforcement agents concerning their investigation of drug trafficking and related unlawful activities. Cooperation shall include providing all information known to defendant regarding any criminal activity, including but not limited to the offense to which he is pleading guilty. Cooperation will also include complying with all reasonable instructions from

1 the United States; submitting to interviews by investigators and attorneys at such reasonable
2 times and places to be determined by counsel for the United States; producing to the United
3 States all non-privileged documents (including claimed personal documents) and other materials
4 in the possession, custody or control of defendant requested by attorneys and agents of the United
5 States; and testifying fully and truthfully before any grand juries, hearings, trials or any other
6 proceedings where defendant's testimony is deemed by the United States to be relevant.

7 Defendant understands that such cooperation shall be provided to any state, territorial, local or
8 federal law enforcement agencies designated by counsel for the United States. Further, it is
9 understood and agreed that defendant shall not directly, indirectly, or intentionally disclose
10 anything defendant knows or had done concerning the United States' investigation to anyone
11 other than defendant's attorney. Defendant agrees to take no steps directly or indirectly to warn
12 any subject of this investigation that defendant, a subject or anyone else is being investigated.

13 (b) The United States will make this cooperation known to the Court prior to the
14 defendant's sentencing. The defendant further understands that he remains liable and subject to
15 prosecution for any criminal schemes of which he does not fully advise the United States, or for
16 any material omissions in this regard.

17 (c) This agreement is not contingent in any way upon the outcome of any investigation,
18 proceeding or subsequent trial. Thus, none of the rights and obligations described above are in
19 any way dependent upon a grand jury returning an indictment, a jury's verdict at any trial, or the
20 success of any prosecution.

21 (d) Except as otherwise herein provided, and in particular in Paragraph 11 of this plea
22 agreement, the United States agrees not to prosecute defendant for any other non-violent
23 offenses which were committed in the District of Guam or the Northern Mariana Islands (CNMI)
24 which defendant reveals to Federal authorities during his cooperation with the United States.
25 This agreement is limited to crimes committed by defendant in the districts of Guam or the
26 CNMI.

1 3. The defendant, JOEL LAYSON RAMA, understands and agrees that any and all assets
2 or portions thereof acquired or obtained by him as a direct or indirect result of his drug
3 trafficking shall be surrendered to the United States or any lawful agency as may be directed by
4 the Court.

5 4. The defendant, JOEL LAYSON RAMA, further agrees to submit to a polygraph
6 examination by any qualified Federal polygraph examiner. The defendant understands that such
7 polygraph examinations may include, but will not be limited to, his knowledge of or involvement
8 in drug trafficking and money laundering activities and his knowledge of other person's
9 involvement in such activities. Defendant understands that the government will rely on the
10 polygraph in assessing whether he has been fully truthful.

11 5(a) The defendant, JOEL LAYSON RAMA, understands that the maximum sentence
12 for Possession with the Intent to Distribute more than 50 Grams Net Weight of
13 Methamphetamine Hydrochloride aka "Ice", in violation of Title 21, United States Code, Section
14 841(a)(1), is a term of life imprisonment, with a mandatory minimum term of ten (10) years
15 incarceration, an \$4,000,000 fine and a \$100 special assessment fee, which must be paid at the
16 time of sentencing. Any sentence imposed shall include a term of supervised release of at least
17 five (5) years in addition to such terms of imprisonment. Defendant understands that if he
18 violates a condition of supervised release at any time prior to the expiration of such term, the
19 court may revoke the term of supervised release and sentence him up to an additional five (5)
20 years of incarceration pursuant to 18 U.S.C. § 3583(e)(3).

21 If the defendant cooperates as set forth in paragraphs 2, 3, and 4, the government will
22 recommend that the defendant receive the minimum term of incarceration legally available under
23 the applicable statutes and Sentencing Guidelines. If the defendant does not fully cooperate as
24 set forth in paragraphs 2, 3, and 4, the government will recommend a sentence of incarceration
25 within the applicable statutes and Sentencing Guidelines range it may deem appropriate.

26 5(b) If the United States determines, in its sole discretion, that the defendant has provided
27 "substantial assistance" pursuant to Title 18, United States Code, Section 3553(e), the United
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1 States will request the Court to depart below the guideline range to whatever guideline range or
2 sentence of incarceration the United States, in its sole discretion, deems appropriate or may,
3 within one year after sentencing herein, move the Court to order relief pursuant to Rule 35, Rules
4 of Criminal Procedure to whatever guideline range or sentence or incarceration the United States
5 in its sole discretion deems appropriate. Defendant acknowledges that the substantial assistance
6 determination is solely up to the Office of the United States Attorney and that the United States
7 has made no promises, implied or otherwise, that defendant will be granted a "departure" for
8 "substantial assistance."

9 The United States agrees to consider the following circumstances in determining whether,
10 in the assessment of the U.S. Attorney, defendant has provided "substantial assistance" which
11 would merit a government request for a downward departure from the applicable guideline
12 sentencing range:

13 (1) the United States' evaluation of the significance and usefulness of any
14 assistance rendered by defendant;

15 (2) the truthfulness, completeness, and reliability of any information or testimony
16 provided by defendant;

17 (3) the nature and extent of defendant's assistance;

18 (4) any injuries suffered or any danger or risk of injury to defendant or defendant's
19 family resulting from any assistance provided by defendant; and

20 (5) the timeliness of any assistance provided by defendant.

21 It is understood that even if a motion for departure is made by the United States, based upon
22 defendant's perceived "substantial assistance," the final decision as to how much, if any,
23 reduction in sentence is warranted because of that assistance, rests solely with the District Court.

24 5(c) The government will recommend a fine within the Sentencing Guidelines range. If
25 defendant is financially unable to immediately pay the fine in full, defendant agrees to make a
26 full disclosure of his financial status to the United States Attorney's Office by completing a
27 Financial Disclosure Form (OBD-500) for purpose of fixing a monthly payment schedule.
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1 Defendant understands that, by law, interest accrues on any remaining balance of the debt.

2 6. The defendant understands that to establish a violation of Possession with Intent to
3 Distribute more than 50 grams net weight of methamphetamine hydrochloride (ice), pursuant to
4 21 U.S.C. § 841(a)(1), the government must prove each of the following elements beyond a
5 reasonable doubt:

6 First: the defendant, knowingly possessed 50 grams net weight or more of
7 a controlled substance;

8 Second: the defendant possessed it with the intent to deliver it to another person.

9 7. The defendant agrees that the Sentencing Guidelines apply to this offense. The
10 defendant also understands that the facts he stipulates to herein will be used, pursuant to 1B1.2,
11 in calculating the applicable guidelines level. The Government and the defendant stipulate to the
12 following facts for purposes of the Sentencing Guidelines:

13 (a) The defendant was born in 1956, and is a citizen of the United States.

14 (b) If the defendant cooperates with the United States by providing information
15 concerning the unlawful activities of others, the government agrees that any self-incriminating
16 information so provided will not be used against defendant in assessing his punishment, and
17 therefore, pursuant to § 1B1.3 of the Sentencing Guidelines, this information should not be used
18 in determining the applicable guidelines range.

19 (c) On March 4, 2008, in the District of Guam, JOEL LAYSON RAMA, knowingly
20 transported from the Philippines to Guam, 222 grams net weight of methamphetamine
21 hydrochloride (ice), a Schedule II controlled substance, with intent to deliver it to another person
22 on Guam.

23 (d) The defendant understands that notwithstanding any agreement of the parties, the
24 United States Probation Office will make an independent application of the Sentencing
25 Guidelines. The defendant acknowledges that should there be discrepancies in the final
26 sentencing guidelines range projected by his counsel or any other person, such discrepancies are
27 not a basis to withdraw his guilty plea.

1 8. The defendant understands that this plea agreement depends on the fullness and
2 truthfulness of his cooperation. Therefore, defendant understands and agrees that if he should
3 fail to fulfill completely each and every one of his obligations under this plea agreement, or make
4 material omissions or intentional misstatements or engage in criminal conduct after the entry of
5 his plea agreement and before sentencing, the government will be free from its obligations under
6 the plea agreement. Thus defendant, in addition to standing guilty of the matters to which he has
7 pled pursuant to this agreement, shall also be fully subject to criminal prosecution for other
8 crimes, and for the counts which were to be dismissed. In any such prosecution, the prosecuting
9 authorities, whether Federal, State, or Local, shall be free to use against him, without limitation,
10 any and all information, in whatever form, that he has provided pursuant to this plea agreement
11 or otherwise; defendant shall not assert any claim under the United States Constitution, any
12 statute, Rule 11(f) of the Federal Rules of Criminal Procedure, Rule 410 of the Federal Rules of
13 Evidence, or any other provision of law, to attempt to bar such use of the information.

14 9. Defendant understands that whether he has completely fulfilled all of the obligations
15 under this agreement shall be determined by the court in an appropriate proceeding at which any
16 disclosures and documents provided by defendant shall be admissible and at which the United
17 States shall be required to establish any breach by a preponderance of the evidence.

18 10. The defendant understands that his sentencing may be continued, at the discretion of
19 the United States, until after the indictment and trial of any associates involved. This will also
20 enable the Court to see the full degree of the defendant's cooperation. The defendant therefore
21 waives any right he may have to any speedy sentencing and hereby agrees to any continuance of
22 his sentencing date as it may become necessary.

23 11. In exchange for the Government's concessions in this plea agreement, the defendant
24 waives any right to appeal or to collaterally attack this conviction but reserves the right to appeal
25 the sentence imposed in this case. The defendant agrees that the government has bargained for a
26 criminal conviction arising from his conduct. If at any time defendant's guilty plea or conviction
27 is rejected, withdrawn, vacated or reversed, for whatever reason, or if any change of law renders
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1 the conduct for which he was convicted to be non-criminal, defendant agrees that he will enter a
2 guilty plea to another charge encompassing the same or similar conduct. In such event,
3 defendant waives any objections, motions or defenses based upon the Statute of Limitations,
4 Speedy Trial Act, or constitutional restrictions as to the time of bringing such charges.

5 12. The defendant acknowledges that he has been advised of his rights as set forth below
6 prior to entering into this plea agreement. Specifically, defendant has been fully advised of, has
7 had sufficient opportunity to reflect upon, and understands the following:

8 (a) The nature and elements of the charge and the mandatory minimum penalty provided
9 by law, if any, and the maximum possible penalty provided by law;

10 (b) His right to be represented by an attorney;

11 (c) His right to plead not guilty and the right to be tried by a jury and at that trial, the
12 right to be represented by counsel, the right to confront and cross-examine witnesses against him,
13 and the right not to be compelled to incriminate himself, that is, the right not to testify;

14 (d) That if he pleads guilty, there will not be a further trial of any kind on the charges to
15 which such plea is entered so that by entering into this plea agreement, he waives, that is, gives
16 up, the right to a trial;

17 (e) Because this plea is entered pursuant to Federal Rule of Criminal Procedure
18 11(c)(1)(B), the defendant understands that he may not withdraw his guilty plea even if the court
19 does not accept the sentencing recommendations of the government or his counsel;

20 (f) That, upon entry of a plea of guilty, or thereafter, the Court may ask him questions
21 about the offenses to which he has pled, under oath, and that if he answers these questions under
22 oath, on the record, his answers may later be used against him in prosecution for perjury or false
23 statement if an answer is untrue;

24 (g) That he agrees that the plea agreement is voluntary and not a result of any force,
25 threats or promises apart from this plea agreement;

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1 (h) The defendant is satisfied with the representation of his lawyer and feels that his
2 lawyer has done everything possible for his defense.

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4 06-24-08
5 DATED: _____

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JOEL LAYSON RAMA
Defendant

DATED: 06-24-08

CURTIS VAN DE VELD
Attorney for Defendant

LEONARDO M. RAPADAS
United States Attorney
Districts of Guam and CNMI

DATED: 6-25-08

By:

FREDERICK A. BLACK
Assistant U.S. Attorney

DATED: 6/25/08

JEFFREY J. STRAND
First Assistant U.S. Attorney